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SUPREME COURT OF THE UNITED STATES.

No. 180.

JAMES ADAMS, EXECUTOR OF THOMAS LAW, DECEASED, APPELLANT,

vs.

EDMUND LAW ROGERS, ADMINISTRATOR DE BONIS NON OF ELIZA P. CUSTIS, DECEASED.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA.

GOVERNMENT PRINTING OFFICE.

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DISTRICT OF COLUMBIA, *to wit:*

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the first Monday of May, being the fifth day of the same month, in the year of our Lord one thousand eight hundred and sixty-two, and the independence of the United States the eighty-sixth.

Were present: The hon'ble James Dunlop, chief judge; James S. Morsell and Wm. M. Merrick, assistant judges; Ward H. Lamon, esq., marshal.

JNO. A. SMITH, *Clerk.*

In the record of proceedings of the said court, among others, are the following, to wit:

Parties.

EDMUND LAW ROGERS, adm'r d. b. non of Eliza P. Custis,
ag'st
JAMES ADAMS, ex'or of Thomas Law.

Be it remembered, that on the 3d day of May, in the year of our Lord one thousand eight hundred and sixty-two, the said appellant, Edmund Law Rogers, administrator de bonis non of Eliza Park Custis, by J. Mason Campbell, esq., his attorney, appeared in court here, and at the same time the said James Adams, executor of Thomas Law, appears in court here by Robert J. Brent, esquire, his attorney, and the said parties, by their said attorneys, file in court here the following record of appeal from the orphans' court for the
6 county of Washington, in the District of Columbia:

Record from orphans' court.

At an orphans' court, held on the 28th day of January, anno Domini 1862, for the county of Washington, in the district of Columbia. Present, Hon. William F. Purcell, sole judge, and Moses Kelly, esquire, register of wills, the following proceedings were had:

James Adams, the executor of Thomas Law, by his attorneys, H. May and R. J. Brent, filed a petition asking the revocation of the appointment heretofore made of Edmund Law Rogers as administrator de bonis non of Eliza P. Custis, and the appointment of another in his place.

Ordered, that copy of petition be served on said Edmund Law

Rogers, and that he be cited to appear on Saturday, the 8th day of February next, to respond thereto.

Also, on 4 March, 1862, case of Adams *vs.* Rogers postponed, by request of counsel, to Tuesday, the 11th inst.

Also, on the 11 March, 1862, in the case of Adams *vs.* Rogers, counsel for respondent filed answer to petition, to which general replication was presented by counsel for the petitioner and filed. The case was then argued by Messrs. Brent & May for petitioner, and Mr. Campbell for respondent, and submitted to the court.

Also, on the 25 March, 1862, in the case of James Adams *vs.* Edmund Law Rogers, the court made a decision as follows :

In the orphans' court of Wash. county, D. C.

JAMES ADAMS
vs.
EDMUND LAW ROGERS, ad. de bonis non of E. P. Custis.

7 The petition, answer, and testimony in the above cause being submitted, after full argument by the respective counsel, the same was read and carefully examined by the court ; and in consideration of its appearing that Edmund Law Rogers was appointed by this court on the 27th June, 1857, administrator de bonis non, as aforesaid, in the place of his father, Lloyd N. Rogers, whose letters were revoked by this court, and no inventory of chattles or debts due to the intestate having been returned or account settled by the said Lloyd N. Rogers while administrator, or by said Edmund L. Rogers, since his appointment in June, 1857, as administrator de bonis non aforesaid ; and in consideration of its further appearing that no proceedings, whatever, have been taken by the said administrator de bonis non for the recovery, to the present time, of upwards of $32,000, which the said Lloyd N. Rogers, as administrator as aforesaid had received, to the knowledge of said Edmund Law Rogers, although nearly five years have now elapsed since the appointment of said Edmund Law Rogers as administrator de bonis non aforesaid ; and although it was admitted in open court, on the hearing of this cause, by the counsel of the said defendant and in the presence and hearing of said defendant, without objection on his part, that the said Lloyd N. Rogers died possessed of a large and solvent estate, and more than twelve months had elapsed since the granting of letters on his estate to Eleanor Rogers, sister of said Edmund L. Rogers.

Therefore it is by this court, and the authority thereof, on this 25 March, 1862, ordered, adjudged, and decreed, that the said Edmund L. Rogers hath not excused himself for his omission to collect said money from the said Lloyd N. Rogers, or his executrix aforesaid; and it is further ordered, that unless the said Edmund L. Rogers shall, within ten days from the delivery to him of a certified copy of this order, pay unto James Adams the sum of $8,410, with interest thereon from the 8 Nov., 1848, according to the force and effect of

8 the decree of the circuit court affirmed by the Supreme Court of the United States, as shown by a certified copy of the record in the case of Law *vs.* Adams and others, now on file among the proceedings in this case, that upon the default or omission of said Edmund L. Rogers to make said payment to said Adams, or his solicitor, within the time above limited, his letters of administration de bonis non on the estate of E. P. Custis be, and the same are hereby, revoked and annulled, and this court will proceed to appoint another administrator de bonis non.

WM. F. PURCELL.

Endorsed as follows: Decree of court in the case of James Adams *vs.* Edmund Law Rogers, filed 25 Mar., '62.

Also, on the 29th March, 1862, in the case of James Adams *vs.* Edmund Law Rogers, the said Rogers appeared, and in open court prayed an appeal to the circuit court for the District of Columbia, from the order made by this court on the 25th inst.; which appeal was allowed to take effect from and after the date of the final decree in the case. And thereupon the said Edmund Law Rogers offered to enter into such bond, with security, as should be ordered and approved by this court, to operate as a supercedeas during this appeal; which the court refused to allow, upon the ground that there is no law authorizing it to take such bond.

Also, on the 1 April, 1862, in the case of James Adams *vs.* Edmund Law Rogers, counsel for the petitioner presented evidence that a copy of the decree rendered in this cause on the 25th ult., was delivered to the respondent, on the 27th ultimo, and the same was filed.

At the same time R. J. Brent, of counsel for petitioner in this cause, presented a statement which was ordered to be filed, having reference to one of the recitals in the decree.

Also, on the 12 April, 1862, in the case of James Adams
9 *vs.* Edmund Law Rogers, administrator de bonis non of E. P. Custis, the solicitor for the petitioner filed a certified copy of the order passed by the circuit court of the District of Columbia for Washington county, sitting in equity, directing Lloyd N. Rogers, administrator of E. P. Custis, to pay over to the petitioner the sum of $8,410, with interest from Nov. 8, 1848, and asked that an order be passed revoking the letters of administration de bonis non heretofore granted to Edmund Law Rogers upon the estate of E. P. Custis. The following order was thereupon passed:

JAMES ADAMS
vs.
EDMOND LAW ROGERS, ad. de bonis non of E. P. Custis.

In the orphans' of Washington county, in the District of Columbia.

The above defendant having been duly served on the 27th day of March, 1862, with a certified copy of the order passed by the court on the 25th day of March, 1862, as appears by satisfactory evidence

now on file among the proceedings in this cause, and the said defendant having, on the 29th March, 1862, prayed an appeal in open court from the aforesaid order of this court, and more than ten days having elapsed since the said copy being served and said appeal being prayed, without any payment being made by the said defendant to the above petitioner, as allowed and directed in the aforesaid order of this court, the said petitioner appeared in open court this 12th day of April, 1862, by his solicitors; Mr. J. M. Carlisle appeared for respondent, Rogers, having been notified by the court, and having filed in this case a certified copy of the order passed by the circuit court of the District of Columbia for Washington county, sitting in equity, directing Lloyd N. Rogers, administrator of E. P. Custis, to pay over to the petitioner the sum of $8,410, with interest, from
10 the 8th Nov., 1848; therefore, the said solicitors moved this court to pass an order revoking the letters of administration de bonis non heretofore granted to said defendant on the estate of E. P. Custis; and it appearing to the court that said motion ought to be granted, it is, this 12th day of April, A. D. 1862, by the authority of this court ordered, adjudged, and decreed, that notwithstanding the immeterial mistake inadvertently made in the recital in said order of 25th March, 1862, that said Lloyd N. Rogers had not returned an inventory on the estate of said intestate, it sufficiently appears that the said Edmund Law Rogers has failed to return any inventory or settle any account as such administrator de bonis non, and has also failed to take any steps to recover assets in the hands of said Lloyd N. Rogers unadministered at the revocation of his letters by this court, although more than twelve months have elapsed since letters of administration on his estate were granted to Eleanor Rogers, as admitted by the defendant's solicitors in open court; and although the said Lloyd N. Rogers was fully solvent and able, in his lifetime and at his death, to pay the money due to said defendant, as administrator de bonis non as aforesaid, and therefore the letters so granted to said defendant as aforesaid ought to be revoked; and it is further ordered, adjudged, and decreed, that the letters of administration de bonis non heretofore granted by this court to Edmund Law Rogers, on the estate of Eliza Park Custis, otherwise called Law, be, and the same are hereby, revoked and annulled, to all intents and purposes, and this court will proceed, on application, to grant new letters of administration de bonis non on the estate of said Eliza Park Custis, according to law.

WM. F. PURCELL.

Endorsed as follows: Order of court revoking letters of ad. de bonis non heretofore granted Edmund Law Rogers upon estate of E. P. Custis. Filed 12 Apl., '62.

ADAMS
11 *vs.*
E. L. ROGERS.

I deem it proper to state that the decree of Judge Purcell, dated 25th March, 1862, in the above case, was prepared by me after the

judge had expressed his opinion in conformity to the result as announced in said decree. In regard to the recital in said decree, that Lloyd N. Rogers had returned no inventory, I state that I inserted that statement, believing it to be so, and knowing that it was unintentional in part of law, as the letters of Edmund Law Rogers were in question by reason of his failure to return an inventory and other omissions. I distinctly recollect that Judge Purcell asked me, when I presented him with the decree for signature, if the fact recited as aforesaid about Lloyd N. Rogers was correctly stated, and I replied that it was so; I was honestly of that opinion, because in argument it was so stated by me and not contradicted by the opposite counsel. The fact was too insignificant to require a more careful search of the records for some years back. As it turns out that Lloyd N. Rogers had returned an inventory, but never settled an account for more than 20 years, the counsel of the ad. de bonis non, instead of explaining the omissions of his own client, which were the matter in issue, are found desperately clutching at straws to prevent them drowning. Understanding that a clamor has been started about this inadvertent statement in so immaterial a matter, I volentarily file this statement as an act of justice to the judge.

April 1, 1862. R. J. BRENT.

Endorsed as follows:

Statement of R. J. Brent respecting one of the recitals in the decree of the orphans' court, 25 March, 1862, in the case of James Adams *vs.* Edmund Law Rogers. Filed Apl. 1, 1862.

12 To the Hon. W. F. Purcell, judge of the orphans' court for Washington county, in the District of Columbia.

The petition of James Adams, executor of Thomas Law, respectfully showeth, that heretofore, on the 11 January, 1858, he filed a petition to your honorable court, which, together with the proceedings thereon, prays may be taken as a part hereof.

Your petitioner further showeth, that said Edmund Law Rogers, as administrator de bonis non of Eliza P. Custis, hath not answered said petition, or in any way noticed the same, so far as your petitioner knows, nor has he filed any inventory or settled any account as such administrator, although his letters were obtained on the 27 June, 1857.

Your petitioner also showeth, that the said Edmund Law Rogers, and all his sureties, except Richard S. Force, reside in the State of Maryland; one of said sureties, Lloyd N. Rogers, being now deceased; that your petitioner, as executor aforesaid and trustee, paid to Lloyd N. Rogers, as administrator of said Eliza P. Law, and which your petitioner charges was by said Lloyd N. Rogers paid over to said administrator de bonis non; that by decree of the circuit court of the District of Columbia for Washington county (passed in a cause wherein your petitioner, as executor aforesaid, and said Lloyd N. Rogers, administrator aforesaid, and others, were parties) the said Lloyd N. Rodgers, as such administrator, was ordered to pay your petitioner,

as such executor, a certain sum of money therein mentioned, out of the distributive shares coming to Edmund Law Rogers and Eleanor A. Rogers, as distributees of Elva P. Custis, as will more fully appear by a duly certified record of said decree and of the cause in which it was passed, hereafter to be filed, and which, when filed, is prayed to be taken as part hereof.

Your petitioner charges that a much greater sum of money is now in the hands of said administrator de bonis non (or ought to
13 be in his hands if he has faithfully collected the assets of said estate, unadministered by the said Lloyd N. Rogers, and well known to the said Edmund Law Rogers) than sufficient to pay the sum decreed to your petitioner as aforesaid. Wherefore, your petitioner humbly prays that by reason of the premises and the default of said Edmund Law Rogers, that his letters be revoked, and such other person appointed in his stead as to your honor may seem right, and such other relief as may seem proper, and as in duty bound he will ever pray.

H. MAY & R. J. BRENT,
For Petitioner.

Issue citation, and renew if *non est*, sec. 1798, ch. 101, sub. ch., §13.

Issue citation as prayed, and also a copy of the above petition to be served on the adm'r, returnable to Saturday the 8th Feb'y next, ensuing.

WM. F. PURCELL.

28th Jan'y, 1862.

Endorsed as follows: Petition of James Adams, executor, &c., *vs.* Edmund L. Rogers. Ent'd and filed 28th Jan'y, '62.

To the Hon. Thomas F. Purcell, judge of the orphans' court of Washington county, in the District of Columbia:

The petition of James Adams respectfully showeth, that heretofore he filed his petition in your honorable court, praying, among other things, that a certain Lloyd N. Rogers, administrator of Eliza P. Custis, otherwise called Eliza P. Law, should settle his administrative accounts, and pay to your petitioner, out of the distributive shares coming to the distributees of said estate, a certain sum of money to which your petitioner is entitled by virtue of a decree of the circuit court of the District of Columbia for Washington county, sitting in equity, passed in the case of Law *vs.* Adams and others, as will more fully appear by reference to said petition and the proceedings on file in your honorable court, and copies of which petition and all the proceedings thereon your petitioner prays may be taken, when filed in this cause, as part of this petition, the same as if the matters thereof were fully and at large herein set forth.

14 Your petitioner further showeth, that since the filing of said petition the letters of said Lloyd N. Rogers, as such administrator, have been duly revoked by your honor, and letters of administration de bonis non on the same estate have been granted, by

your honor, to a certain Edmund Law Rogers, as will more fully appear by reference to the proceedings of your honorable court in the premises.

Your petitioner further showeth, that the said Lloyd N. Rogers, as administrator aforesaid received a large sum of money, upwards of thirty-two thousand dollars, which was in his hands at the revocation of his letters, as aforesaid undistributed and unadministered, and he has never settled any account of his said administration.

Your petitioner does not know, but believes and charges that the said Lloyd N. Rogers hath paid over to said Edmund Law Rogers, as such administrator de bonis non, a large sum of money now in his hands as such administrator de bonis non, and which is more than sufficient to satisfy and pay the claim of your petitioner, as more fully and at large set forth in his petition aforesaid made a part; and your petitioner is advised and charges that no just cause exists why the said Edmund Law Rogers shall not settle his account as said administrator de bonis non with a view to the ascertainment of the balance of money in his hands for distribution, and to the end that your petitioner's claim, as aforesaid, may be paid thereon.

Your petitioner further showeth and charges, that in case the said unadministered assets, remaining in the hands of said Lloyd N. Rogers at the revocation of his said letters, have not been paid over to said Edmund Law Rogers, as said administrator de bonis non, then the same are suffered to remain in the hands of said Lloyd N. Rogers by the acquiescence and consent of said Edmund Law Rogers, with a view to prevent the payment of the amount so decreed to your petitioner, and your petitioner, that such acquiescence and consent in case the said balance of money has not been paid over as aforesaid, and no legal measures have been taken by said Edmund Law Rogers with a view to recover the same, is a devastavet and maladministration of the assets of said estate by him as such administrator de bonis non, and his letters ought therefore to be at once revoked, and a new administrator appointed who will promptly collect and account for said assets.

Your petitioner further showeth, that both said Loyd N. Rogers & Edmund Law Rogers are residents in the State of Maryland, and your petitioner avers that, by the laws of Maryland, *th* said administrator de bonis non hath full legal powers to sue and recover the said unadministered assets from said Lloyd N. Rogers, if he has not already done so; wherefore your petitioner prays that said Edmund Law Rogers may be ordered to answer this petition fully on his corporal oath, and each and every allegation therein; and that, if he has collected said assets from said *Loyd* N. Rogers, he may be ordered to account for and distribute the same in your honorable court, and that if he has failed to collect, or to take proper and due measures to collect the same, that his letters as such administrator de bonis non be at once revoked, and new letters of administration granted to such other person as may be selected by your honorable court, and as in duty bound your petitioner will ever pray, &c.

ROBERT J. BRENT,
For JAMES ADAMS.

On consideration of the aforegoing petition, it is ordered that Edmund Law Rogers, administrator de bonis non of Eliza P. Custis, otherwise Eliza P. Law, shall answer this petition, and the matters thereof shall stand for hearing on the 19th day of January next, provided a copy of the same and this order be served on the said Edmund Law Rogers, on or before the 8th day of January next.

WM. F. PURCELL.

2d Jan'y, 1857.

16 Endorsed as follows: Petition of James Adams and order of court, filed Jan'y 2d, 1858.

LAW
vs.
ADAMS, LAW, *et al.*
} Circuit court of the District of Columbia for Washington county, in equity.

This cause having been set for hearing upon the auditor's report and accounts, and the exceptions filed thereto, and having been fully argued and considered, it is thereupon by this court and the authority thereof, this 21st day of January, in the year of our Lord one thousand eight hundred and fifty-six, adjudged, ordered, and decreed, that after satisfying the unpaid costs of this suit, the sum of $23,064 17 be paid by the trustee, James Adams, to Lloyd N. Rogers, administrator of Eliza Park Law, it being the balance of arrears due on the annuity settled on the said Eliza Park Law, by the testator Thomas Law, in the deed dated the 9th day of August, in the year of our Lord one thousand eight hundred and four, after crediting the said trustee with the sum of 9,521 59, heretofore paid by him to said Loyd N. Rogers, on the 8 November, 1848, making in all the sum of 32,585 76 to be received by said Lloyd N. Rogers, as such administrator, in full of said arrears; and whereas it was the manifest intention of the testator, as expressed in the codicil to his last will and testament, that his grandchildren, Edmund Law Rogers, Eleanor Rogers, and Eliza Rogers should not receive the legacies by him bequeathed to them, if they should demand or receive, from his estate, any sum or sums of money coming to them as heirs of their grandmother, Eliza Park Law, under, or by virtue of, any of the deeds recited in said codicil; and whereas the said Edmund Law Rogers, Eleanor Rogers, and the administrator of Eliza Rogers, deceased, are the sole distributees of the said Eliza Park Law, and as such entitled to such residuum of said sum
17 $32,585 76, hereinbefore finally decreed to the administrator of said Eliza Park Law, as may remain for distribution by said administrator. Therefore, it is further adjudged, ordered, and decreed that the said Edmund Law Rogers, Eleanor Rogers, and the administrator of Eliza Rogers, deceased, shall each for himself or herself elect between the distributive shares coming to them respectively as aforesaid out of said sum of $32,585 76, and the legacies bequeathed to them respectively by said testator; and in case they or any of them elect to take and receive the legacies, or legacy, as

bequeathed them; and in that case the said legatee, or legatees, so electing shall be paid his or her pro ratio share of the legacy coming to him or her as shown in the auditor's report and accounts, deducting from the shares coming to said Edmund Law Rogers and Eleanor Rogers the sum of $8,410 03 heretofore paid them on the 8 November, 1848, with legal interest thereon computed from that date, so soon as he or they shall file with the trustee and executor, James Adams, a written assignment, in due form of law, transferring to said Adams, for the benefit of the estate of the testator, the amount of his or her distributive shares aforesaid, not exceeding the amount paid, or to be paid, to the legatees so electing for, or on account of his or her said legacy; and so soon as the said Adams shall notify said assignment to the administrator of said Eliza Park Law, and in case the said Edmund Law Rogers, Eleanor Rogers, and the administrator of said Eliza Rogers, or any of them, shall elect to claim and take the aforesaid legacies, then it is further adjudged, ordered, and decreed that the trustee, James Adams, shall forthwith pay to each of the legatees of the testator, who are not hereby required to elect, or his solicitor, the pro ratio share of the assets in hand coming to all the legatees, admitting all to participation in the fund as shown in the auditor's account last filed; but in case the said legatees, or any of them named in said codicil, shall elect to claim, take, and recover his or her distributive share of said sum of $32,585 76, then, and in that
18 case, the amount of the legacy or legacies bequeathed to them or any of them so electing shall enure to the benefit of the estate of the said testator.

It is further adjudged, ordered, and decreed that such election shall be in writing, signed by the parties hereby required to elect, and filed in the proceedings of this court within ten days from this date, unless the parties or any of them so required to elect shall previously file in the proceedings of this cause a petition, praying to be allowed to postpone their election until the final settlement of the administration accounts of the administrator of Elizabeth Park Law, in which case the said administrator is hereby enjoined and restrained from making any payments out of said sum of $32,585 76 to the distributees thereof, or any of them, until such election shall be made; and in the event of such election being so postponed, it is further adjudged, ordered, and decreed that the trustee, James Adams, do immediately, upon the filing of such petition for postponing the election hereinbefore required, pay to the other legatees of the testator who are not hereby required to elect, their and each of their pro ratio shares of the assets and funds now in hand as shown by the auditor's account, distributing the same among all the legatees of the testator pro ratio; and in the event of the said Edmund Law Rogers, Eleanor Rogers, and the administrator of Eliza Rogers, or any of them, electing to claim their distributive shares of $32,585 76, the said Lloyd N. Rogers, administrator of Eliza P. Law, shall, upon the order of this court and not otherwise, pay the amount of the distributive share or shares to said legatee, or legatees, first deducting from the share of Edmund Law Rogers and Eleanor Rogers the sum of eight thou-

sand four hundred and ten dollars and three cents, hereinbefore mentioned, with interest thereupon from the 8 November, 1848,
19 and which last sum to be deducted therefrom the said Lloyd N. Rogers shall, in that case, pay to the said trustee, James Adams, for the benefit of the estate of the said testator. But in case the said legatees or any of them hereby required to elect as aforesaid shall fail to petition for postponement or to elect as aforesaid within ten days, or if they shall fail to make such election within ten days after the settlement of the final account of the administrator of said Eliza Park Law, then they shall be considered as electing not to take said legacies to them.

And it is further adjudged, ordered, and decreed that the surplus funds which may remain after satisfying on the principles of this decree the legacies bequeathed by said testator, shall be paid to the legal representatives of William Bleme, the residuary devisee of said testator, after paying thereout to Henry May and Robert J. Brent twenty-five per cent. on the amount of such surplus in fulfilment of the contract made between them and James Adams, as reported by the auditor.

It further ordered that all claims and exceptions at varience with this decree, except the claim of Barry, which is allowed in full, to be paid out of future assets to come into the trustee's hands, be, and the same are hereby, disallowed and overruled; and that the trustee, James Adams, do proceed, with all convenient dispatch, to collect the debts due to said estate, including the funds in the hands of J. P. Ingle, and to sell the residue of property belonging to his testator, and as yet unsold, and to report his further proceedings in the premises to this court; and it is hereby referred to the auditor to state and report what amount of compensation may still remain equitably due or should be allowed to said Adams for his services, and also to said Ingle for his services, in respect to said fund; and the question of such confirmation is reserved until the distribution of further
20 assets, to be hereafter reported to this court, it not being intended to affect or delay thereby the distribution now ordered.

By order of the court.

Test: JNO. A. SMITH, *Clk.*

Endorsed as follows: Decree of circuit court. Filed May 15, 1857.

At an orphan's court, held on the 11th day of April, anno Domini 1857, for the county of Washington, in the District of Columbia, present Hon. William *Purcell*, sole judge, and Edward N. Roach, esquire, register of wills, the following proceedings were had:

Petition of James Adams and order of court *filed.*

Also, on the 28 April, 1857, the answer of L. N. Rogers, adm'r of E. P. Custis, to the petition of James Adams, executor of Thomas Law, deceased, filed.

General replication to the answer of L. N. Rogers is made by James Adams, *plaintif.*

Also, on the 22 May, 1857, the case of Adams *vs.* Rogers was taken up, and after argument by counsel was left to the court.

Also, on the 13 June, 1857, the court made its decision in the case of Adams *vs.* Rogers, filed.

Also, on the 20 June, 1857, Lloyd N. Rogers appeared in obedience to the order of the court passed the 13 inst., and prays an indulgence to the 30 inst., which is granted.

Also, on the 27 June, 1857, petition of Lloyd N. Rogers and decision of court revoking his letters of administration filed.

Petition of Edmund Law Rogers and order of court filed.

Also, on the 2 Jan'y, 1858, petition of James Adams, ex't
21 of Thomas Law, deceased, and order of court filed.

Also, on the 19 Jan'y, 1858. Answer of Edmund Law Rogers to petition of James Adams filed.

Also, on the 30 March, 1858. In the case of James Adams *vs.* Edmund L. Rogers the court made the following order, filed.

Also, on the 15 May, 1858. On motion of Robert J. Brent, counsel for Jas. Adams, the following order.

Also, on the 25 May, 1858. The case of Adams *vs.* Rogers was taken up, and after argument by counsel, the case was left to the court.

To the Hon. W. F. Purcell, judge of the orphan's court of Wash. city:

The petition of James Adams, executor of Thomas Law, deceased, respectfully showeth, that by virtue of a decree of the circuit court of the District of Columbia, for Washington county, sitting in equity, passed in the case of Law *vs.* your petitioner, Loyd N. Rogers and other defendants, your petitioner is entitled to be paid by said Rogers, as administrator of Eliza P. Custis, the sum of eight thousand four hundred and ten dollars and three cents, with interest thereon from the 8 Nov., 1848; and such payment is to be made out of the distributive shares which may be owing or coming from said Loyd N. Rogers, as such administrator, to Edmund & Eleanor Rogers, as distributees of said Eliza P. Custis, as will more fully appear by a certified copy of said decree, which, when filed hereafter, is prayed to be taken as part of this petition.

Your petitioner further showeth, that said Lloyd N. Rogers has administered on the estate of said Eliza P. Custis, by taking out letters in your honorable court, on the 29th Dec., 1832; but the said Rogers hath never settled any account of his said adminis-
22 tration in this court; and your petitioner further showeth that the said Lloyd N. Rogers has received, as such administrator, large sums of money; amounting to over thirty thousand dollars, and the distributive shares of said Edward & Eleanor Rogers are much more than sufficient to satisfy and pay the amount, so as aforesaid decreed to be paid to your petitioner.

Your petitioner further showeth that the bond of said administrator is now barred by limitations, and is only in the penalty of $8,000, and therefore wholly inadequate to the security of the funds chargeable to said administrator and actually received by him; and your

petitioner further showeth that the said *Loyd* N. Rogers resides in or near Baltimore city, in the State of Maryland. Wherefore your petitioner prays that a citation may be issued to said *Loyd* N. Rogers, to be served personally on him, commanding him, as such administrator, to settle his account in the premises, and that the letters so as aforesaid granted to him may be revoked, by reason of his failure to settle any account of said estate within the time limited by law, and that an administrator on said estate may be appointed in the place or stead of said *Loyd* N. Rogers, and that your petitioner may be paid the amount so as aforesaid decreed him, and as in duty bound he will ever pray, &c.

ROBERT J. BRENT,
HENRY MAY.
For Petitioner.

Ordered, on the foregoing petition, that the matters therein contained stand for hearing on Tuesday, the twenty-eighth day of April, inst., provided, a copy of said petition and this order be served personally on said Lloyd N. Rogers, on or before the 17th of April inst.

WM. F. PURCELL.

11 April, 1857.

23

Endorsed as follows: Petition of Jas. Adams, ex't of Thos. Law. Filed April 10, '57, and order of court filed April 11, 1857.

THE UNITED STATES OF AMERICA,
Washington County, to wit:

To the marshal of the District of Columbia, greeting:

You are hereby commanded to cite and summon Lloyd N. Rogers that he appear before the orphan's court of Washington county, to be held at the city Washington in and for said county, on Tuesday, the 28th inst., to render an account as administrator of Eliza P. Custis, dec'd; and also to show cause why his letters, as such administrator, should not be revoked on the petition of *of* James Adams, by his attorneys, Brent & May.

Witness William F. Purcell, esq., judge of the orphan's court of [SEAL] Washington county, D. C., this 11th day of April, 1857.

Test: ED. N. ROACH,
Register of Wills.

To the honorable Wm. F. Purcell, judge of the orphan's court of Washington city:

The petition of James Adams, executor of Thomas Law, deceased, respectfully showeth: That by virtue of a decree of the circuit court of the District of Columbia for Washington county, sitting in equity, passed in the case of Law *vs.* your petitioner, Lloyd N. Rogers and others, defendants, your petitioner is entitled to be paid by said Rogers, as administrator of Eliza P. Custis, the sum of eight thousand four hundred and ten dollars and three cents, with interest thereon from the 8th November, 1848, and such payment is to be made out

of the distributive shares which may be owing or coming from said Lloyd N. Rogers, as such administrator, to Edmund and Eleanor Rogers, as distributees of said Eliza P. Custis, as will more
24 fully appear by a certified copy of said decree, which, when filed hereafter, is prayed to be taken as part of this petition.

Your petitioner further showeth that said Lloyd N. Rogers has administered upon the estate of said Eliza P. Custis, by taking out letters in your honorable court, on 29th December, 1832; but the said Rodgers hath never settled any account of his said administration in this court; and your petitioner further showeth that the said Lloyd N. Rogers hath received, as such administrator, large sums of money, amounting to over thirty thousand dollars, and the distributive shares of said Edmund and Eleanor Rogers are much more than sufficient to satisfy and pay the amount so as aforesaid decreed to be paid to your petitioner.

Your petitioner further showeth that the bond of the aforesaid administrator is now barred by limitation, and is only in the sum of $8,000, and therefore wholly inadequate to the security of the fund chargeable to the said administration and actually received by him; and your petitioner further showeth that the said Lloyd N. Rogers resides in or near Baltimore city, in the State of Maryland; wherefore your petitioner prays that a citation may be issued to Lloyd N. Rogers, to be served personally on him, commanding him, as such administrator, to settle his account in the premises, and that the letters so as aforesaid granted to him may be revoked, by reason of his failure to settle any account of said estate, within the time limited by law, and that an administrator on said estate may be appointed in the place and stead of said Lloyd N. Rogers; and that your petitioner may be paid the amount so as aforesaid decreed to him, and as in duty bound he will ever pray, &c.

ROBERT J. BRENT,
HENRY MAY,
For Petitioner.

25 Ordered, on the foregoing petition, that the matters therein contained stand for hearing on Tuesday, the twenty-eighth day of April inst., provided a copy of said petition and this order be served personally on said Lloyd N. Rogers, on or before the 17th day of April inst.

WM. F. PURCELL.

11 April, 1857.

DISTRICT OF COLUMBIA,
Washington County, to wit:

I certify that the aforegoing are truly copied from the originals, filed and recorded in the office of the register of wills for Washington county, aforesaid.

[SEAL OF COURT.] Witness my hand and seal of office this 16 day day of April, anno Domini, 1857.

ED. N. ROACH,
Reg. Wills.

STATE OF MARYLAND,
Baltimore City, to wit:

Before the subscriber, a justice of the peace in and for the city aforesaid, personally appeared Charles A. Schwatkd, and made oath on the Holy Evangely of Almighty God that on this 17th day of April, 1857, the deponent served a copy of the within petition and order on Lloyd N. Rogers, and also read to him the annexed citation from the orphan's court of Washington county in the District of Columbia.

JOHN MITCHELL, *J. P.*

STATE OF MARYLAND,
Baltimore City, sct.:

I hereby certify that John Mitchell, esquire, before whom the annexed oath was made, and who has thereto subscribed his name, was at the time of so doing a justice of the peace of the State of Maryland, in and for the city of Baltimore, duly commissioned and sworn.

[SEAL OF COURT.] In testimony whereof, I hereto set my hand and affix the seal of the superior court of Baltimore
26 city, this 18th day of April, A. D. 1857.

E. DOWLING,
Clerk of the superior court of Baltimore city.

Endorsed as follows: Petition of James Adams, ex'r. (Copy of petition of 1857.) Costs of copy and certificates of within, $3 00. Filed April 20, '57.

The answer of Lloyd N. Rogers, defendant, to the petition of James Adams, executor of the will of Thomas Law, deceased, filed in the orphan's court of Washington city, D. C.

This respondent, answering, says that he admits that the circuit court of the District of Columbia for Washington county, sitting in equity, did, by decree bearing date on or about the 21 January, 1856, in the case of Law *et al. vs.* said Adams *et al.*, direct the payment, on certain contingencies, of the sum of eight thousand four hundred and ten dollars and three cents, with interest, by this respondent, as administrator of the personal estate of Eliza Park Custis, unto the said Adams, for the uses and purposes in said decree mentioned, as thereby appears, and this respondent supposes that the said decree is the decree referred to in this petition. But this respondent says that an appeal was taken from the said decree to the Supreme Court of the United States, where said appeal is now depending, and this respondent is advised that the said appeal supercedes and stays the execution of the said decree. This respondent admits that he is administrator, as aforesaid, and he admits that his children, the said Edmund L. Rogers and Eleanor Rogers, are the only descendants of the said Eliza Park Custis, and are her distributees under the statute of her personal estate.

And this respondent admits that he has received and paid away large sums of money of the estate of the said Eliza Park Custis; and he says he is unable to state and render a full account of his administration at this time, and until the decision of the Supreme Court of the United States upon said appeal, and he cannot answer the
27 other allegations of the said petition, in regard to the assets which have come to his hands until after the decision of said appeal.

And this respondent prays that his administration of said estate may not be revoked, and he prays that said petition may be dismissed, &c.

LLOYD N. ROGERS,
Administrator, see gee.

Baltimore City, sct.:

On this 27th day of April, 1857, before the subscriber, a justice of the peace of the State of Maryland, of the city aforesaid, personally appeared Lloyd N. Rogers, aboved named, and made oath on the Holy Evangely of Almighty God that the matter and facts above stated are true, as there stated.

WM. H. BAYZARD.

STATE OF MARYLAND,
Baltimore City, sct.:

I hereby certify that William H. Bayzard, esq., before whom the annexed affidavit was made, and who has hereto subscribed his name, was at the time of so doing a justice of the peace of the State of Maryland, in and for the city of Baltimore, duly commissioned and sworn.

[L. S.] In testimony whereof I hereto set my hand and affix the seal of the superior court of Baltimore city, this 27 day of April, A. D. 1857.

EDWARD DOWLING,
Clerk of the superior court of Baltimore city.

Endorsed as follows: Rogers, adm. Mrs. Law nts Adams, exr. T. Law. Answer. Filed April 28, '57.

ORPHANS' COURT,
Washington County:

J. ADAMS,
vs.
ROGERS, adm'r of E. P. Custis.

28 Mr. ROACH: Enter a general replication to the answer of the defendant this day filed.

R. G. BRENT,
for Petitioner.

Apr. 28, 1857. JAMES ADAMS.

Endorsed as follows: Filed April 28, '57.

To the honorable the judge of the orphans' court of the District of Columbia for Washington county:

The supplemental answer of Lloyd N. Rogers, administrator of Eliza Park Custis, (Law,) to the petition of James Adams, executor of Thomas Law, deceased, respectfully showeth: That your respondent did, on the twenty-eighth day of April, 1857, make and file in your honorable court an answer to said petition; but having been advised since said answer was filed that the appeal to the Supreme Court of the United States in said answer mentioned and referred to was, although on the docket of said Supreme Court, yet owing to some informality, of which your respondent was not then aware, not properly there, your respondent now, by this supplemental answer, showeth that said appeal, as by the certificate of the clerk of said Supreme Court, hereunto appended, will appear, is now properly placed upon said docket, and is now pending before said court; wherefore your respondent prays that the petition of said Adams may be hence dismissed, and that the letters of your respondent may not be revoked.

LLOYD N. ROGERS,
Administrator of Eliza Park Custis, (Law.)

Witness:
J. LAWKINCUT.

29 STATE OF MARYLAND,
Baltimore City, sct.:

This 29th day of April, in the year of our Lord eighteen hundred and fifty-seven, before the subscriber, a justice of the peace of the State of Maryland, in and for said city, personally appeared Lloyd N. Rogers, known to me of my own knowledge to be the party mentioned in the foregoing instrument in writing, and made oath on the Holy Evangely of Almighty God that the matters and things therein stated were true.

In testimony whereof I hereunto subscribe my name on the day and year aforesaid.

WM. H. BAYZARD.

STATE OF MARYLAND,
Baltimore City, sct.:

I hereby certify that William H. Bayzard, esquire, before whom the annexed acknowledgment was made, and who has thereto subscribed his name, was at the time of so doing a justice of the peace of the State of Maryland, in and for the city of Baltimore, duly commissioned and sworn.

[SEAL OF COURT.] In testimony whereof I hereto set my hand and affix the seal of the superior court of Baltimore city, this 29th day of April, A. D. 1857.

EDWARD DOWLING,
Clerk of the superior court of Baltimore city.

Supreme Court of the United States.—No. 124, December term, 1857.

Appeal from the circuit court of the United States for the district of Columbia, holden in and for the county of Washington.

LLOYD N. ROGERS, adm'r of Eliza Park Custis, EDMOND LAW ROGERS, in his own right, and as adm'r of Eliza Law Rogers, and ELEANOR A. ROGERS, app'ts,
vs.
JOSEPH E. LAW, by Mary Robinson, his next friend.

30 I, William Thomas Carroll, clerk of the Supreme Court of the United States, do hereby certify that the above-entitled appeal from the circuit court of the United States for the district of Columbia is on the docket of the said Supreme Court of the United States, and is now pending in said court.

In testimony whereof I hereto subscribe my name and
[L. S.] affix the seal of said Supreme Court, at the city of Washington, this 30th day of April, A. D. 1857.

WM. THOS. CARROL,
Clerk Sup. C't U. S.

Endorsed as follows: Suplemental answer. Filed May 15, '57.

ADAMS *vs.* ROGERS. } Orphans' court.

The above petitioner, by his counsel, specially replying to the original and supplemental answers of the respondent, traverses and denies each and every allegation in said answers mentioned, and requires the respondent to establish said allegation by evidence, if any such can be had.

R. J. BRENT,
For Petitioner.

Endorsed as follows: General replication. Filed May 22, 1857.

Orphans' court, Washington Co., D. C., 13 June, 1857.

JAMES ADAMS, executor of Thomas Law,
vs.
LOYD N. ROGERS, administrator of Eliza P. Custis.

This cause came on to be heard on the bill, answer, and exhibits, and argued by counsel, on consideration whereof the court doth adjudge, order, and decree that, without interferring in any man-

31 ner with the merits of the cause now pending in the Supreme Court of the United States:

This court hereby orders and directs that the said Loyd N. Rogers, administrator aforesaid, shall, within ten days from the date hereof, enter a new bond in the penalty of forty thousand dollars, with sureties to be approved by this court, and settle his admistration accounts by showing all sums of money and property that he has received, and what he has paid out, and to whom, subject to future order of this court

WM. F. PURCELL.

Orphans' court, Washington Co., D. C., 27 June, 1857.

Whereas Loyd N. Rogers, who was required to give a new bond and settle his administration account on the within estate, and he having failed to do so within the time prescribed, and now declines to do so by his petition, it is hereby ordered and decreed that his powers as administrator aforesaid be revoked.

WM. F. PURCELL.

Endorsed as follows: Decree of orphans' court in Adams *vs.* Rogers. Filed June 13, 1857.

To the Hon. Wm. F. Purcell, judge of the orphans' court for Washington county in the District of Columbia.

The undersigned, heretofore administrator of the personal estate of Eliza Park Custis, (Law,) late of said Washington county, deceased, hereby respectfully advises your honorable court that he declines to give further security as administrator of said estate, and begs leave, at the same time, to state that he desires to interpose no objection to a revocation of the letters in that behalf heretofore granted to
32 him, nor to a grant of other such letters to whomsoever may be legally entitled to receive the same.

With great respect, your ob't serv't.

LLOYD N. ROGERS.

Baltimore, 26 June, 1857.

Endorsed as follows: Petition of L. N. Rogers to revoke letters. Filed June 27, '57.

To the Hon. William F. Purcell, judge of the orphans' court for Washington county in the District of Columbia.

The petition of Edmund Law Rogers respectfully showeth: That your petitioner is the only male heir and decendant of Eliza Park Custis, (Law,) late of said Washington county, deceased, your petitioner being the guardian of said deceased; that your petitioner is advised that he is legally entitled, as such heir and descendant, in preference to all others, to letters of administration upon the pe-

sonal estate of said deceased. Wherefore your petitioner prays that letters of administration as aforesaid may be granted to him, and your petitioner as in duty bound will ever pray, &c.

EDMUND LAW ROGERS.

27 June, 1857.

Grant letters as prayed, bond in the penalty of $16,000.

WM. F. PURCELL.

Endorsed as follows: Petition of Edmund Law Rogers and order of court. Filed June 27, 1857.

33 *To the honorable William F. Purcell, judge of the orphans' court of Washington county in the District of Columbia.*

The petition of James Adams respectfully showeth: That heretofore he filed his petition in your honorable court praying, among other things, that a certain Lloyd N. Rogers, administrator of Eliza P. Custis, otherwise called Eliza P. Law, should settle his administration account, and pay to your petitioner, out of the distributive shares coming to the distributees of said estate, a certain sum of money to which your petitioner is entitled by virtue of a decree of the circuit court of the District of Columbia for Washington county, setting in equity, passed in case of Law *vs.* Adams and others, as will more fully appear by reference to said petition and the proceedings therein on file in your honorable court, and copies of which petition and all the proceedings thereon your petitioner prays may be taken when filed in this cause as part of this petition, the same as if the matters thereof were fully and at large herein set forth.

Your petitioner further showeth that since the filing of said petition the letters of said Lloyd N. Rogers, as such administrator, have been duly revoked by your honor and letters of administration de bonis non on the same estate have been granted by your honor to a certain Edmund Law Rogers, as will more fully appear by reference to the proceedings of your honorable court in the premises.

Your petitioner further sheweth that the said Lloyd N. Rogers, as administrator aforesaid, received a large sum of money, upwards of thirty-two thousand dollars, which was in his hands at the revocation of his letters as aforesaid, undistributed and unadministered, and he has never settled any account of his said administration.

34 Your petitioner does not know, but believes and charges that the said Lloyd N. Rogers hath paid over to said Edmund Law Rogers, as such administrator de bonis non, a large sum of money, now in his hands as such administrator de bonis non, and which is more than sufficient to satisfy and pay the claim of your petitioner, as more fully and at large set forth in his petition aforesaid, made a part hereof, and your petitioner is advised and charges that no just cause exists why the said Edmund Law Rogers shall not settle his accounts as said administrator de bonis non, with a view to the ascertainment of the balance of money in his hands for distribution, and to the end that your petitioner's claim as aforesaid may be

paid thereout. Your petitioner further showeth and charges, that in case the unadministered assets remaining in the hands of said Lloyd N. Rogers at the revocation of his said letters have not been paid over to said Edmund Law Rogers as said administrator de bonis non, then the same are suffered to remain in the hands of said Lloyd N. Rogers by the acquiesence and consent of said Edmund Law Rogers, with a view to prevent the payment of the amount so decreed to your petitioner, and your petitioner, that such acquiesence and consent, in case the said balance of monies has not been paid over as aforesaid, and no legal measures have been taken by said Edmund Law Rogers with a view to recovering the same, is a devastavit and maladministration of the assets of said estate by him as such administrator de bonis non, and his letters ought therefore to be at once revoked, and a new administrator appointed who will promptly collect and account for said assets.

Your petitioner further showeth that both said Lloyd N. Rogers and Edmund Law Rogers are residents in the State of Maryland, and your petitioner avers that by the laws of Maryland the said administrator de bonis non hath full legal powers to sue and recover the said unadministered assets from Lloyd N. Rogers if he has not already done so. Wherefore your petitioner prays that said Edmund Law Rogers may be ordered to answer this petition fully on his corporal oath, and each and every allegation therein, that if he has collected said assets from said Lloyd N. Rogers he may be ordered to account for and distribute the same in your honorable court, and that if he has failed to collect or take proper and due measures to collect the same, that his letters as such administrator de bonis non be at once revoked and new letters of administration granted to such other persons as may be selected by your honorable court, as in duty bound your petitioner will ever pray, &c.

(Signed) ROBERT J. BRENT,
For James Adams.

On consideration of the aforegoing petition, it is ordered that Edmund Law Rogers, administrator de bonis non of Eliza P. Custis, otherwise Eliza P. Law, shall answer this petition, and the matter thereof shall stand for hearing on the 19th day of January next: Provided a copy of the same and this order be served on the said Edmund Law Rogers, on or before the 8th day of January next.

(Signed) WM. F. PURCELL.
2nd Jan'ry, 1858.

DISTRICT OF COLUMBIA,
Washington County, to wit:

I certify that the aforegoing is a true copy from the original, filed and recorded in the office of register of wills for Washington county aforesaid.

Witness my hand and seal of office this 4 day of January, in the year 1858.

[SEAL.] ED. N. ROACH, *Reg'r Wills.*

36 BALTIMORE CITY, *to wit:*

On this ninth day of January, A. D. 1858, before the subscriber, a justice of the peace in and for said city, personally appears Robert K. Inglehart, and made oath in due form of law that he did on yesterday hand a true copy of the aforegoing and within petition and order to Edmund Law Rogers of Balt. city. (The word yesterday being first interlined.)

DAN'L E. MYERS.

STATE OF MARYLAND,
Baltimore City, sct:

I hereby certify that Daniel E. Myers, esquire, before whom the annexed affidavit was made, and who has thereto subscribed his name, was at the time of so doing a justice of the peace of the State of Maryland in and for the city of Baltimore, duly commissioned and sworn.

In testimony whereof I hereto set my hand and affix the seal of the superior court of Baltimore city, this 8th day of January, A. D. 1858.

[SEAL.]

GEO. E. SANGSTON,
Clerk of the Superior Court of Baltimore city.

Endorsed as follows: Copy—Petition of Jas. Adams, filed Jan'y 11, 1858.

To the Hon. William F. Purcell, judge of the orphans' court of Washington county in the District of Columbia.

The answer of Edmund Law Rogers, administrator de bonis non of the personal estate of Eliza P. Custis, (Law,) deceased, to the petition of James Adams, executor of the will of Thomas Law, deceased, filed in the orphans' court of Washington county in the District of Columbia.

37 The respondent, answering, says that he is not a party to the petition of said Adams against Lloyd N. Rogers, mentioned and referred to in the petition now filed against the respondent, but said respondent is informed that an appeal has been taken to the Supreme Court of the United States from the decree of the circuit court for Washington county aforesaid, in equity, referred to by said Adams in his petition, was filed against the respondent and is now depending in the Supreme Court aforesaid; and he is advised that the said decree of the circuit court is suspended by said appeal.

This respondent admits that the letters of administration which had been granted to said Lloyd N. Rogers of the personal estate of *of* said Eliza P. Custis (Law) were afterwards revoked by the court, and that letters of administration de bonis non of the estate of said Eliza P. Custis (Law) were afterwards granted by the said court to the respondent.

This respondent is advised by his counsel that he, as administrator de bonis non as aforesaid, hath no claim against said Lloyd N. Rogers, as administrator as aforesaid ; and if the said Lloyd N. Rogers hath committed any devastavit as regards the said Adams, this respondent leaves him to such remedy as the law affords.

This respondent denies that he, as administrator de bonis non as aforesaid, hath received any monies from the said Lloyd N, Rogers, as administrator as aforesaid, and he denies that he, as administrator de bonis non as aforesaid, has received any funds from any person belonging to the estate so administered upon by him.

And this respondent, further answering, says that acting by the advice of counsel as aforesaid, he hath not taken any legal measures against said Lloyd N. Rogers ; and he says that this court hath not directed him so to do. He admits that said Lloyd N. Rogers is a resident of the State of Maryland. And this respondent says that he hath not done or omitted to do anything required of him by the law as administrator de bonis non as aforesaid for which his letters
38 ought to be revoked, and he prays that they be not revoked.

And he further says that he is now a member of the house of delegates to the legislature of Maryland, where he is much engaged in the discharge of his public duties, and will be so engaged until after the ninth day of March next, wherefore he prays your honor to suspend any further action in this case until after the said ninth day of March next.

And he prays to be hence dismissed with his costs, &c.

EDMUND LAW ROGERS,
Adm'r de bonis non of Eliza P. Custis, (Law.)

CITY OF ANNAPOLIS,
Anne Arundel County, State of Maryland, sct:

Be it remembered, and it is hereby certified, that on this sixteenth day of January, in the year of our Lord one thousand eight hundred and fifty-eight, personally appeared Edmund Law Rogers, above named, and made oath on the Holy Evangely of Almighty God that the matters and facts above stated are true as there stated.

JNO. G. TAYLOR,
Justice of the Peace of the State of Maryland in and for Anne Arundel Co.

STATE OF MARYLAND,
Anne Arundel County, to wit:

I hereby certify that John G. Taylor, esquire, before whom the within acknowledgment appears to have been made, was at the time of so doing one of the State of Maryland justices of Anne Arundel county, duly commissioned and sworn.

In testimony whereof I have set my hand and affixed the seal of the circuit court for Anne Arundel county, this 16 day of
[L. S.] January, eighteen hundred and fifty-eight.

A. H. GREEN, *Clk.*

Endorsed as follows: Answer of Edm'd Law Rogers. Filed Jan'y 18, 1858.

39 In the cause of JAMES ADAMS *vs.* EDMUND LAW ROGERS, administrator de bonis non of Eliza P. Custis, dec'd. } Orphans' Court, Washington county, D. C., 30th March, 1858.

The above cause is set for hearing on Saturday, the 10th of April next ensuing, and the register will give due notice to the parties and their counsel accordingly.

W. F. PURCELL.

Endorsed as follows: Order of court. Filed March 30, 1858.

ORPHAN'S COURT, *May* 15, 1858.
Washington County, D. C.

In the case of James Adams *vs.* Edmund Law Rogers, administrator de bonis non of Eliza P. Custis, deceased, the above cause is further postponed 'til Tuesday, the 25th instant, and the register will give notice to the parties and their counsel accordingly.

W. F. PURCELL.

Endorsed as follows: Order of court in case of James Adams *vs.* Edm'd L. Rogers. Filed May 15, 1858.

DISTRICT OF COLUMBIA,
Washington County, to wit:

The United States of America to the marshal of the District of Columbia, greeting:

You are hereby commanded to cite and summon Edmund Law Rogers that he appear before the orphans' court of Washington county, to be held at the city of Washington in and for said county, on Saturday, the 8th day of February next, to show cause why his letters of administration de bonis non of Eliza P. Custis should not be revoked as prayed by petition of James Adams, executor of Thomas Law, as per copy annexed hereto.

40 Witness William F. Purcell, esq., judge of the orphans' court of Washington county, D. C., this 28th day of January, 1862.

[SEAL.] Test: MOSES KELLY,
Register of Wills.

To the Hon. W. F. Purcell, judge of the orphans' court for Washington county in the District of Columbia.

The petition of James Adams, executor of Thomas Law, respectfully showeth: That heretofore, on the 11 Jan., 1858, he filed a

petition to your honorable court, which, together with the proceedings thereon, he prays may be taken as part hereof.

Your petitioner further showeth that said Edmund Law Rogers, as administrator de bonis non of Eliza P. Custis, hath not answered said petition, or in any way noticed the same, so far as your petitioner knows. Nor has he filed any inventory, or settled any account as such administrator, although his letters were obtained on 27 June, 1857. Your petitioner also showeth that the said Edmund Law Rogers and all his sureties, except Richard S. Coxe, reside in the State of Maryland, one of said sureties, Lloyd N. Rogers, being now deceased; that your petitioner, as executor aforesaid and trustee, payed to Lloyd N. Rogers, as administrator of said Eliza P. Law, and which your petitioner charges was by said Lloyd N. Rogers paid over to the said administrator de bonis non that, by decree of the circuit court of the District of Columbia for Washington county, (passed in a cause wherein your petitioner, as executor aforesaid, and said Lloyd N. Rogers, as administrator aforesaid, and others were parties,) the said Lloyd N. Rogers as such administrator was ordered to pay to your petitioner as such executor a certain sum of money therein mentioned out of the distributive shares coming to Edmund Law Rogers and Eleanor A. Rogers as distributees of Eliza P. Custis, as will more fully appear by a duly certified record of said decree
41 and of the cause in which it was passed, hereafter to be filed, and which when filed is prayed to be taken as part hereof. Your petitioner charges that a much greater sum of money is now in the hands of said administrator de bonis non (or ought to be in his hands if he has faithfully collected the assets of said estate, unadministered by the said Lloyd N. Rogers, and well known to said Edmund Law Rogers) than sufficient to pay the sum decreed to your petitioner as aforesaid; wherefore your petitioner humbly prays that by reason of the premises and the default of said Edmund Law Rogers that his letters be revoked, and such other person appointed n his stead as to your honor may seem right, and such other relief as may seem proper, and as in duty bound he will ever pray.

H. MAY & R. J. BRENT,
For Petitioner.

DISTRICT OF COLUMBIA,
Washington County, to wit:

I hereby certify that the aforegoing is a true copy from the original on file in the office of register of wills for Washington county aforesaid.

[SEAL.] Witnes, my hand and seal of office this 28th day of January, 1862.

MOSES KELLY,
Register of Wills.

BALTIMORE, *February* 8, 1862.

EDMUND LAW RODGERS, ad. de bonis non of E. P. Custis: Not being able to serve the within citation on you, owing to your absence, you

are now notified, in pursuance of law, that we shall apply for the revocation of your letters, as prayed in the within petition, and such application will be made to the orphans' court of Washington county in the District of Columbia, on the twenty-fifth day of February instant, and where you can attend.

42 R. J. BRENT,
H. MAY,
For James Adams, the Petitioner.

To the honorable W. F. Purcell, judge of the orphans' court for Washington county in the District of Columbia:

The answer of Edmund Law Rogers, administrator d. b. n. of Eliza Park Law, to the petition of James Adams, executor of Thomas Law, (a copy of which petition is herewith filed.)

This respondent, in regard to the petition alleged to have been filed on the eleventh day of January, 1858, and the proceedings (if any) thereon, refers for better information to the records of this court.

He says that he hath not filed any inventory of the estate of Eliza P. Law, deceased, because he knows of no property of the said deceased whereof to return such inventory; and that he hath filed no account of said estate because his predecessor in said administration (the late Lloyd N. Rogers) made no payment of any moneys received by him as such administrator to this respondent, as administrator d. b. n. of the said deceased; nor has this respondent received, as such administrator d. b. n., nor has he in hand any, moneys of said estate.

That there was a cause heretofore depending in the circuit court of the District of Columbia for Washington county, in which the petitioner, as executor as aforesaid, and the said Lloyd N. Rogers, as administrator as aforesaid, and others, were parties, and that there was a decree passed therein by said court, which went, on appeal, to the Supreme Court, and has been affirmed there so recently that this respondent is informed that the mandate has not yet issued thereon; but your petitioner is advised that the true construction of the said decree therein is not set forth in said petition, as he will make

43 it appear when said petitioner files a certified copy, as he undertakes to do, of said decree.

This respondent admits that he, and all his sureties on his bond as administrator d. b. n., (except the said Lloyd N. Rogers, now deceased, and Mr. Coxe,) reside in Maryland; but he further saith that he hath unincumbered real estate in Washington county, in the District of Columbia, to the value of twenty thousand dollars, and that the said bond is amply sufficient for the penalty thereof.

EDMUND LAW ROGERS.

MARYLAND DISTRICT, *to wit:*

I hereby certify that on the sixth day of March, in the year of our Lord one thousand eight hundred and sixty-two, before the subscriber,

United States commissioner in and for the district of Maryland, personally appeared Edmund Law Rogers, and made oath according to law that the matters and things stated in the foregoing answer are true to the best of his knowledge and belief.

[L. S.] In testimony whereof I have hereto set my hand and affixed my seal, on the day and year aforesaid.

JOHN HANAN,
U. S. Com.

Endorsed as follows: Answer of Edmund Law Rogers, adm'r d. b. n. of Eliza Parke Law, to petition of James Adams, exr. of Thomas Law. Filed 11 M'ch, '62.

ADAMS *vs.* ROGERS. } In orphans' co. for Washington co., D. C.

The hearing of the petition in this case is postponed to Tues-
44 day, 11 March, 1862, at 12 m.

R. J. BRENT,
For Petitioner.
J. M. CAMPBELL,
For Rogers.

Endorsed: Filed March 4, 1862.

ADAMS *vs.* ROGERS. } Orphans' court, 1862.

The above petitioner, James Adams, specially replying to the answer of the respondent, traverses and denies each and every allegation in said answer mentioned, and requires the respondent to establish said allegations by evidence, if any such can be had.

R. J. BRENT,
For Petitioner.

March, 1862.

Endorsed as follows: General replication to answer of E. L. Rogers. Filed 11 M'ch, '62.

JAMES ADAMS, *vs.* EDMUND LAW ROGERS, ad. de bonis non of E. P. Custis. } In the orphans' court of Wash. county, D. C.

The petition, answer and testimony, in the above cause, being submitted, after full argument by the respective counsel, the same was read and carefully examined by the court, and in consideration of its appearing that Edmund Law Rogers was appointed by this court on the 27th June, 1857, administrator de bonis non as aforesaid, in the place of his father, Lloyd N. Rogers, whose letters were revoked by this court, and no inventory of chattels or debts due to the intestate having been returned, or accounts settled by the said Loyd

N. Rogers, while administrator, or by said Edmund Law Rogers
45 since his appointment, in June, 1857, as administrator de bonis non as aforesaid, and in consideration of its further appearing that no proceedings have been taken by the said administrator de bonis non for the recovery, to the present time, of upwards of $32,000, which the said Loyd N. Rogers as administrator aforesaid had received to the knowledge of said Edmund Law Rogers, although nearly five years have now elapsed since the appointment of the said Edmund Law Rogers as administrator de bonis non as aforesaid, and although it was admitted in open court, on the hearing of this cause, by the counsel of the said defendant and in the presence and hearing of said defendant without objection on his part, that the said Loyd N. Rogers died possessed of large and solvent estate, and more than twelve months had elapsed since the granting of letters on his estate to Eleanor Rogers, sister of said Edmund Law Rogers.

Therefore it is by this court and the authority thereof, on this 25th March, 1862, ordered, adjudged, and decreed, that the said Edmund Law Rogers hath not excused himself for his omission to collect the said money from the said Loyd N. Rogers, or his executrix aforesaid; and it is further ordered that unless the said Edmund L. Rogers shall, within ten days from the delivery to him of a certified copy of this order, pay unto James Adams the sum of $8,410, with interest thereon from the 8 Nov., 1848, according to the force and effect of the decree of the circuit court, affirmed by the Supreme —— of the United States, as shown by a certified copy of the record in the case of Law *vs.* Adams and others, now on file among the proceedings in this case, that upon the default or omission of said Edmund Law Rogers to make such payment to said Adams, or his solicitor, within the time above limited, his letters of administration de bonis non on the estate of E. P. Custis be, and the same are hereby, revoked and annulled, and this court will proceed to appoint another administrator de bonis non.

WM. F. PURCELL.

46 DISTRICT OF COLUMBIA,
Washington County, to wit:

I hereby certify that the aforegoing is a true copy from the original filed and recorded in the office of the register of wills for Washington county aforesaid.

[SEAL.] Witness my hand and seal of office this twenty-sixth day of March, A. D. 1862.

MOSES KELLY,
Register of Wills.

STATE OF MARYLAND,
Baltimore City, to wit:

Before the subscriber, a justice of the peace in and for the city and State aforesaid, personally appeared David Freidenrich, and made oath on the Holy Evangely of Almighty God that he did this day per-

sonally deliver to Edmund Law Rogers the original, whereof the above is a true and correct copy.

Sworn this 27th day of March, in the year 1862, before me,

EDW. J. PETERS, *J. P.*

STATE OF MARYLAND, *Baltimore City, sct.:*

I hereby certify that Edward J. Peters, esquire, before whom the annexed affidavit was made, and who has thereto subscribed his name, was, at the time of so doing, a justice of the peace of the State of Maryland in and for the city of Baltimore, duly commissioned and sworn.

In testimony whereof I hereto set my hand and affix the seal [SEAL.] of the superior court of Baltimore city, this 27th day of March, A. D. 1862.

GEO. E. SANGSTON,
Clerk of the Superior Court, Baltimore city.

Endorsed as follows: James Adams *vs.* Edmund Law Rogers. Copy served. Filed April 1, '62.

47 JOSEPH E. LAW *vs.* JAMES ADAMS *et al.* } Circuit court of the District of Columbia for Washington county—in equity.

The petition of James Adams, trustee in the above-entitled case, respectfully showeth: That your honorable court has ordered the decree passed in this cause on the 26th January, A. D. 1856, to be executed on the part of your petitioner, and he is advised that, with a view to the perfect execution of said decree, he is entitled to receive from Lloyd N. Rogers, administrator of Eliza Park Law, eight thousand four hundred and ten dollars and three cents, with interest thereon from the 8th day of November, 1848, in consequence of the omission of Edmund Law Rogers and Eleanor Rogers to make the election or petition for a postponement thereof, as directed by said decree, provided there shall be that amount coming to said Edmund and Eleanor, as distributees of said administration; but by the terms of said decree the said administrator could only pay over said distributive shares upon the order of your honorable court, first deducting the above amount, with interest, from the distributive shares of said Edmund and Eleanor, and paying the amount so deducted to your petitioner.

Your petitioner further showeth that notwithstanding he hath paid to said Lloyd N. Rogers the full amount decreed to him as such administrator, yet the said Lloyd N. Rogers hath neglected to settle his administration account in the orphans' court of Washington county, in the District of Columbia, in which he administered and suffered his said letters to be revoked, and letters de bonis non to be granted by said court to the said Edmund Law Rogers, who alleges, in answer to a petition filed in said court by your petitioner, that he hath, as such administrator de bonis non, received no part of said

amount so paid by your petitioner to Lloyd N. Rogers, and that, as such administrator de bonis non, he hath no power to demand
48 and recover the same from said Lloyd N. Rogers, who, your petitioner avers, is a resident of Maryland.

Your petitioner therefore prays that an order may be passed by your honorable court, decreeing the said Lloyd N. Rogers forthwith to pay over the amount in his hands at the revocation of his said letters to the administrator de bonis non aforesaid, and also an order directing the distribution of the estate of Eliza Park Law among the distributees thereof, deducting and paying to your petitioner the amount hereinbefore stated, in conformity to the decree aforesaid. Your petitioner is advised that his proceedings to recover said amount now wrongfully held by said Lloyd N. Rogers will be much hindered, delayed, and embarrassed, without an order of your honorable court in the premises.

Wherefore he prays the relief hereinbefore prayed for, and as in duty bound will ever pray.

ROBERT J. BRENT,
For Petitioner.

Ordered that the matter of the aforegoing petition be set for hearing on the 5th day of June next, provided a copy of this petition and order be served on said Lloyd N. Rogers and Edmund Law Rogers, on or before the 3d day of June, 1858.

By order of court.

Test: JNO. A. SMITH, *Clk.*

True copy.

Test: JNO. A. SMITH, *Clk.*

STATE OF MARYLAND,
Baltimore City, to wit:

On this 3d day of June, in the year of our Lord 1858, before me, a justice of the peace, in and for the said city, personally appeared Vernon Dorsey, he being known to me to be a credible person, and made oath on the Holy Evangely of Almighty God that he did,
49 on 1st June inst., deliver a copy of the within petition and order to Lloyd N. Rogers personally, and did, on 3d June inst., leave a copy of said petition and order at the residence of Edmund Law Rogers, in the city of Baltimore, because on repeated inquiries at the office and residence of the said Lloyd N. Rogers on the first, second, and third days of June inst., he was unable to find said Rogers.

SAMUEL KENEDY OWINGS, *J. P.*

STATE OF MARYLAND,
Baltimore City, sct.:

I hereby certify that Samuel Kenedy Owings, esquire, before whom the annexed affidavit was made, and who has thereto subscribed his name, was at the time of so doing a justice of the peace

of the State of Maryland in and for the city of Baltimore, duly commissioned and sworn.

In testimony whereof I hereto set my hand and affix the seal of the superior court of Baltimore city, this 3 day of June, A. D. 1858.

GEO. E. SANGSTON,
Clerk of the Superior Court of Baltimore city.

Ordered, on this eleventh of June, 1858, on the within petition and proof of service, no cause to the contrary being shown, that the defendant, Lloyd N. Rogers, administrator of Eliza Park Law, shall, out of the distributive shares in his hands coming to Edward Law Rogers and Eleanor Rogers, pay to James Adams, trustee and executor, the sum of eight thousand four hundred and ten dollars and three cents, with legal interest from 8 Nov., 1848.

By order of court.

Test: JNO. A. SMITH, *Cl'k.*

Endorsed as follows: Joseph E. Law *vs.* James Adams *et al.* Copy, petition and order filed. Filed 12 April, '62.

Page 17, 10th line from bottom, the words "by him," in-
50 terlined after the word legacies.

Page 17, 8th line from bottom, the word "coming," interlined after the word money.

Page 48, 6th line from top, the words "the State of," interlined after the word of.

Page 67, 13th line from bottom, the word "said," interlined after the word to.

DISTRICT OF COLUMBIA,
Washington County, to wit:

I hereby certify that the aforegoing is a correct transcript of the proceedings in the orphans' court for Washington county aforesaid in the case of James Adams *vs.* Edmund Law Rogers, ad. de bonis non of E. P. Custis, as filed and recorded in the office of register of wills for Washington county aforesaid.

Witness my hand and seal of office this 2d day of May, A.
[SEAL.] D. 1862.

MOSES KELLY, *Register of Wills.*

EDMUND LAW ROGERS, adm. d. b. n. of E. P. Law, appellant,
vs.
JAMES ADAMS, ex'r of Thos. Law, appellee.

It is admitted that on the 12th of April, 1862, the appellant, Edmund Law Rogers, entered his appeal from the decree of the orphans' court for Washington county in the District of Columbia, bearing date said 12th day of April, 1862.

May 30th, 1862. R. J. BRENT, *For App'lee.*

51 J. M. CAMPBELL, *For App't.*

Judgment reversed.

And the said cause being set for hearing, and coming on to be heard, the record being read and fully argued by counsel on both sides, and the matter fully understood and mature deliberation thereon had, the court, this 19th day of June, 1862, reverse, with costs, the order of the orphans' court, revoking the letters of Edmund Law Rogers, administrator de bonis non of Eliza P. Custis, and remand the case to the orphans' court of the District of Columbia, with directions to dismiss, with costs, the appellee's petition.

Test: JNO. A. SMITH, *Cl'k.*

Appeal prayed.

And thereupon the said appellee, James Adams, adm'r of Thomas Law, by his attorney aforesaid, prays, in open court, an appeal from the judgment and decree aforesaid, made by the court in the premises, to the Supreme Court of the United States, and to him it is granted. Whereupon he files in court here the following appeal bond, to wit:

Appeal bond.

Know all men by these presents that we, James Adams and Henry May, are held and firmly bound unto Edmund Law Rogers, administrator de bonis non of Eliza P. Custis, in the sum of two hundred ——— dollars, current money, to which payment well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated this 14th day of June, 1862.

Whereas lately, at a circuit court of the District of Columbia, sitting for the county of Washington, in a suit pending in the said court, wherein Edmund Law Rogers, administrator de bonis non of Eliza P. Custis, was appellant, and James Adams, executor of Thomas Law, was appellee, judgment was rendered against the said appellee; and he having entered an appeal to the Supreme Court of the United States.

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Now the condition of the above obligation is such, that if the said James Adams, executor of Thomas Law, shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be null, and otherwise to be and remain in full force and virtue.

JAS. ADAMS. [SEAL.]
HENRY MAY. [SEAL.]

Sig'd, sealed, and delivered in the presence of—
CH'L MCNAMEE.

Approved. JAS. DUNLOP.

Thereupon it is ordered by the court here that a record of the proceedings, with all things thereunto relating, be transmitted to the said Supreme Court; which is done accordingly.

Clerk's certificate and seal.

In testimony whereof I have hereto subscribed my name
[SEAL.] and affixed the public seal of said court, for the county aforesaid, this 7th day of August, in the year 1862.

JNO. A. SMITH, *Cl'k.*

Filed Dec. 4, 1862.